

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATEMENT OF INVESTMENT POLICY**

**FOR  
RESPONSIBLE CONTRACTOR PROGRAM**

**August 15, 2005**

*This Policy is effective immediately upon adoption and supersedes all previous Responsible Contractor policies.*

**I. PURPOSE**

This document sets forth the investment policy ("the Policy") for the Responsible Contractor Program ("the Program"). The design of this Policy ensures that contractors, investors, managers, consultants, or other participants selected by the California Public Employees' Retirement System ("the System") take prudent and careful action while managing the Program. Additionally, use of this Policy provides assurance that there is sufficient flexibility in controlling investment risks and returns while using contractors.

**II. INTRODUCTION**

The California Public Employees' Retirement System ("the System") has a deep interest in the condition of workers employed by the System and its advisors or partners. The System, through the Responsible Contractor Program Policy (Policy) described below, supports and encourages fair wages and benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on the System's real estate investments.

The System endorses small business development, market competition, and control of operating costs. The System supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of the System's real estate investments. The System believes that an adequately compensated and trained worker delivers a higher quality product and service. This Policy shall complement and in no manner detract from the System's existing Policy regarding service-disabled California veteran owned business enterprises. The Policy is consistent with the recommendations of fiduciary counsel in a letter to the System's General Counsel dated December 7, 1992 and includes provisions for transition, monitoring, and enforcement.

### III. DEFINITION OF A RESPONSIBLE CONTRACTOR

A responsible contractor, as used in this Policy, is a contractor or subcontractor who pays workers a fair wage and a fair benefit as evidenced by payroll and employee records and who complies with service-disabled veteran business (SDV/BE) policy. The definition of fair benefits includes, but is not limited to, “employer-paid family health care coverage, pension benefits, and apprenticeship programs.” What constitutes a “fair wage” and a “fair benefit” depends on the wages and benefits paid on comparable real estate projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g., residential or commercial and public or private), comparable job or trade classifications, and the scope and complexity of services provided.

### IV. INITIAL REQUIREMENTS OF THE RESPONSIBLE CONTRACTING POLICY

- A. **Duty of Loyalty** - Notwithstanding any other considerations, assets shall be managed for the exclusive benefit of the participants and the beneficiaries of the System. The System’s, as well as its advisors’ or partners’, duty to the participants and their beneficiaries shall take precedence over any other duty.
- B. **Prudence** - The System’s Board, staff, and advisors or partners are charged with the fiduciary duty of exercising the care, skill, prudence, and diligence appropriate to the task.
- C. **Competitive Return** - To comply with duties of loyalty and prudence, all investments and services must be made and managed in a manner that produces a competitive risk-adjusted return.
- D. **Competitive Bidding** - Contractors and their subcontractors for construction, maintenance, and services shall be selected through a competitive bidding and selection process. The purpose of this provision to encourage fair competition and to seek bids actively from all qualified sources within an area, particularly those identified as Responsible Contractors. Advisors or Partners and their subcontractors shall create a bidding process that includes notification and invitations to bid, distributed to a broad spectrum of potential bidders, particularly those identified as Responsible Contractors. The review of the bids shall include consideration of loyalty, prudence, and competitive risk-adjusted returns (factors to be considered include experience, reputation for honesty, integrity, timeliness, dependability, fees, SDV/BE policy, and the adherence to the Responsible Contracting Policy.)

- E. **Local, State, and National Laws** - All advisors or partners and their subcontractors shall observe all local, state, and national laws (including, by way of illustration, those pertaining to insurance, withholding taxes, minimum wage, and health and occupational safety).
- F. **CalPERS Service Disabled California Veteran Business Enterprise Policies** – Will adhere to CalPERS disabled veteran business enterprise policies.

## **V. SELECTION PREFERENCE OF A RESPONSIBLE CONTRACTOR**

If Initial Requirements A through F (see Section IV above) are satisfied, the System expresses a strong preference that Responsible Contractors be hired.

## **VI. TRANSITION, ENFORCEMENT, MONITORING, AND ADMINISTRATION**

- A. **Applicable Investments and Phasing** - This Policy shall apply to all domestic real estate advisors or partners single family real estate investments, and joint ventures and partnerships where CalPERS owns a greater than 50% ownership interest (and associated advisor or partner and subcontractor contracts and bids arising out of those investments). This Policy specifically excludes all other types of investments, including commingles funds, opportunity funds, mezzanine debt, hybrid debt, international investments, and indirect, specialty, and mortgage investments lacking equity features and their respective advisors. When the Policy is not applicable by its terms, partners or advisors shall be encouraged to make a good faith effort to comply with the spirit of the policy, consistent with their fiduciary duty.

Housing Development Partnership existing on the effective date of this Policy shall not be amended to incorporate this Policy, but voluntary compliance is strongly recommended. The practicality, schedule, and method of extending this Policy in the future, beyond those investments and contracts described herein shall depend on factors that include the structure of the investment and the degree of control the System can exercise.

- B. **Notification** - The System shall provide all applicable current and prospective real estate advisors or partners with a copy of this Policy.
- C. **Solicitation Documents** - All requests for proposal and invitations to bid covered by this Policy shall include the terms of this Policy inclusive of the Responsible Contractor Self-Certification Form (Appendix 1). Responses by bidders shall include information to assist the Partner/Advisor in evaluating a bid. CalPERS reserves the right to

disclose the contents of the Self-Certification Form at its or its Advisors or Partners discretion.

- D. **Contracts and Renewals** - All contracts entered into after the effective date of this Policy and pertaining to applicable real estate investments, including renewals of such contracts, shall include the terms of this Policy. Responsible Contractor compliance will be part of the advisors or partners contract renewal consideration. Non-compliance will be reported to the System's Board on a timely basis or at a minimum annually.
- E. **Responsibilities** - The responsibilities of the System's staff ("the Staff"), advisors or partners, property managers, contractors, and unions are defined as follows:
1. The System's staff shall have the following responsibilities:
    - a. Reviewing the advisors' or partners' annual reports regarding compliance with the Policy.
    - b. Developing and maintaining contact lists for all the System' properties and providing a copy to inquiring parties.
    - c. Reporting periodically to the Investments Committee on these findings and making recommendations for corrective action as necessary. The first report shall be six months after adoption of the Policy.
  2. Advisors' or Partners' responsibilities shall include the following duties:
    - a. Communicating the Policy to all property managers.
    - b. Reviewing a contract listing for each property prepared by each property manager.
    - c. Maintaining a simplified bid summary for each applicable contract. The summary shall include identifying contract, successful bidder, and bidder's status as Responsible Contractor.
    - d. Providing an annual report to the System' Staff, describing their own efforts as well as those by property managers and their subcontractors.

- e. Monitoring and enforcing the Policy, including the investigation of potential violations.
  - f. The Partner or Advisor shall sign and deliver, on their companies letterhead, a Partner or Advisor annual Certification stating the following:

“I certify that for the fiscal year ending June 30, 20XX \_\_\_\_\_ (Partner Name) and any agents and/or subcontractors hired by us, have complied, to the best of my knowledge, with the Responsible Contractor Policy and more specifically with the roles and responsibilities stated within the policy.”
  - g. The partner or advisor shall notify a national contact at trade/service unions as pursuant to Section VI E.5.a. if the partner or advisor is expanding into new areas so that trade/service unions can provide the partner or advisor contact information of local trade councils and union halls in the market where expansion is occurring.
3. Property managers shall have responsibility for the following duties:
- a. Communicating in bid documents the Responsible Contractor Program Policy to contractors seeking to secure construction or building service contracts.
  - b. Communicating about the Policy to any interested party.
  - c. Ensuring there is a competitive bidding process, inclusive of potentially eligible Responsible Contractors.
  - d. Requiring that bidders provide to the property manager a Responsible Contractor self-certification on a form approved by the System.
  - e. Preparing and sending to advisors or partners a contract listing for applicable service contracts for each property under management. The building trades and service trades and other potential bidders will have access to this list.
  - f. Providing advisors or partners with a simplified bid summary for each contract.

- g. Providing property level annual report information to advisors or partners.
  - h. Maintaining documentation for successful bidders.
  - i. Seeking from trade unions/service unions input in the development of Responsible Contractor lists.
  - j. Maintaining a list of any interested Responsible Contractors and local trade councils and union halls in all markets in which the Responsible Contractor Policy is applicable. (Names, addresses and telephone numbers).
- 4. Contractors shall have the responsibility for the following duties:
  - a. Submitting a Responsible Contractor self-certification on a form approved by the System to the property manager. Communicating to subcontractors the Responsible Contractor Program Policy.
  - b. Providing the property manager with Responsible Contractor documentation.
- 5. Trade unions/service unions shall perform the following tasks:
  - a. Delivering to the property manager or advisor or partner, lists of names and telephone numbers of Responsible Contractors. Provide a national contact person/address where current information can be sent as well as notifications of expansions into new areas. In addition, provide contact information (address, phone number and contact person) of local trade councils and union halls in all markets in which the responsible contractor policy is applicable to the property manager or advisor or partner.
  - b. Referring interested and qualified Responsible Contractors to the property manager.
  - c. Monitoring the local labor markets continually to update the lists.
  - d. Providing technical input as appropriate.
- F. **Outreach** - The System' staff shall develop and maintain a list of all the System' properties. The list shall include the property name, address, advisor or partner and property manager, and telephone number of the

property manager and real estate advisors or partners. The System' staff shall provide this list to anyone who requests a copy. Actual contract expiration inquiries shall be referred to the property level. Property managers shall provide solicitation documents to any potential contractor who, has in writing, expressed an interest in bidding for the relevant contract.

- G. **Minimum Contract Size** - The Policy shall absolutely apply to all contracts of a minimum size of \$50,000. Minimum contract size refers to the total project value of the work contracted for and not to any desegregation by trade or task. For example, a \$50,000 contract to paint two buildings in a single office complex would not be treated as two \$25,000 contracts, each less than the minimum contract size. Desegregation designed to evade the requirements of the Policy is not permitted.
- H. **Applicable Expenditures Categories** - The Policy shall apply to tenant improvements, capital expenditures, and operational service contracts (such as cleaning).
- I. **SDV/BE Policy** - Satisfaction of the System' SDV/BE Policy is a necessary condition before the System, acting through its contractors, hires a Responsible Contractor. Advisors or Partners and Contractors shall provide a certification statement of SDV/BE compliance or documentation of good faith efforts. Advisors or Partners shall collect and retain adequate data documenting their compliance with this Policy and shall be prepared to produce this data for review by the Staff when requested.
- J. **Fair Wage, Fair Benefits, and Training** - The Policy avoids a narrow definition of "fair wage", "fair benefits", and "training" that might not be practical in all markets. Furthermore, the Policy does not require a "prevailing wage", as defined by government surveys. Instead, the Policy looks to local practices concerning type of trade and type of project. The Policy recognizes that practices and labor market conditions vary across the country and that flexibility in its implementation is very important.

In determining "fair wages" and "fair benefits" concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions, and other items.

In place of a prevailing wage standard, the Policy requires a broad outreach and competitive bidding program, as described in Section IV. D, and VI. F. and L. This program is premised upon the availability of a

list of Responsible Contractors in every market in which the System directly owns a property. While advisors or partners, their property managers and contractors are responsible for gathering and analyzing information relevant in identifying and hiring a Responsible Contractor, compilation of this list does not depend solely on the advisors or partners, property managers, or contractors. Instead, this Policy invites the various local trades to suggest contractors, which in their view, qualify as Responsible Contractors. Sources of information include local building and service trade councils, builders associations, and governments.

- K. **Annual Review and Data Forms** - A proposed Responsible Contracting annual report is required with this Policy. The annual review of Advisors' or Partners' compliance with the Policy shall coincide with the SDV/BE review. Advisors or Partners shall present summary data in a format described and approved by the System. The annual review of advisor or partners compliance shall provide the System' Staff with good faith evidence of monitoring and enforcement.

The annual review shall determine whether each advisor or partner, property manager, and contractor conducted a good faith outreach program and a competitive bidding process that includes responsible contractors. If a potential, responsible contractor does not respond to the invitation to bid, then the advisor or partner, property manager, or contractor has acted properly. For each bidder, the advisor or partner, property manager, or contractor is obliged to gather appropriate responsible contracting information and make a judgment concerning the five initial requirements described in Section IV. If there are instances in which an advisor or partner, property manager, or contractor failed to comply with this Policy, the System' review of the advisors or partners, property managers, or contractors shall focus on the overall pattern of conduct and not any one specific incident.

- L. **Competitive Bidding** - Property managers and contractors shall give notice for applicable bids in local trade publications, bulletin boards, and union building trades councils. Property managers shall seek input from building trades councils for developing lists of responsible contractors for inclusion in the bidding process.

Property managers may choose a reasonable number of contractors to invite to bid from the list of responsible contractors. Given the time and expense required to solicit and evaluate bids, it is not essential that advisors or partners, property managers, and contractors invite all potential bidders.



The property manager must ensure that there is a competitive bidding process, which is inclusive of potentially eligible responsible contractors. Large numbers of bidders does not necessarily assure inclusion. Property managers must take care in ensuring those bidders include potentially eligible responsible contractors.

Although the Policy does not require hiring union workers, the trade unions will be invited to participate in the following:

1. Deliver to the property manager or advisor or partner lists of names and telephone numbers of responsible contractors and local trade councils and union halls in all markets in which the responsible contractor policy is applicable, including those responsible contractors who expressed any interest in bidding.
2. Continually monitor the local markets, updating the lists. Property managers shall maintain these lists supplied by the trade unions.

- M. **Neutrality** - The System supports a position of neutrality in the event there is a legitimate attempt by a labor organization to organize workers employed in the construction, maintenance, operation, and services at a System owned property.

Resolution of any interjurisdictional trade disputes shall be the responsibility of the trades and the various state and national building trades councils. This Policy does not call for any involvement by the advisors or partners, property managers, or contractors in interjurisdictional trade disputes.

- N. **Enforcement** - The System shall place a non-complying advisor or partner or property manager on a probation watch list. If the advisor or partner or property manager does not modify this pattern of conduct, even after discussions with the System' staff, the System shall consider this pattern of conduct along with other information when it reviews the advisor or partner or property manager contract for possible renewal. The key indicator is a pattern of conduct that is inconsistent with the provisions of the Policy.

Advisors or Partners, property managers, and contractors that have not hired responsible contractors in the past may still bid for contracts. However, after the award of such contracts the System shall review its compliance with the Policy.

The System does not require that advisors or partners, property managers, or contractors use any particular system for compliance.

However, from time to time, the System's staff may disseminate information and suggestions regarding efficient ways for complying with this Policy.

- O. **Complaints** - Formal complaint(s) may be submitted to the System per the attached Complaint, Investigation and Resolution Process Regarding Potential Violations of the CalPERS' Responsible Contractor Policy (Appendix 2).

## CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS

### GENERAL INFORMATION

Company Name	
Address	
City	
Telephone Number (    )	Fax Number (    )
Ownership Structure (Please check one)	
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other _____	
Description of Service(s) Provided	
Contractor's License #	

### RESPONSIBLE CONTRACTOR STATUS *(Refer to definitions on reverse)*

Please check one of the following boxes:

1.     ☐ Meets all Responsible Contractor requirements
2.     ☐ Meets none of the Responsible Contractor requirements
3.     ☐ Meets certain of the Responsible Contractor requirements *(provide explanation below)*

If you have checked box 3 above, please provide an explanation below *(attach additional pages if necessary on questions 3, 4 and 5)*:

Explanation: \_\_\_\_\_  
\_\_\_\_\_

4. Has your firm ever been fined, received an adverse judgment, penalty, or received any mandated changes to its corporate policy in the past 18 months resulting from violations of State or Federal labor laws, including but not limited to the National Labor Relations Board, or Equal Opportunity Commission (i.e. sexual harassment and/or discrimination violations)? If yes, please explain.

Explanation: \_\_\_\_\_  
\_\_\_\_\_

5. Relative to question #4, are there any complaints that you are aware of that have been filed with your firm or any entities listed under question #4? If yes, please explain. (Affirmative answer(s) to the question will not necessarily disqualify the vendor from being the successful bidder. The level of investigation of the complaints listed in response to the question will be left to the judgment of the investment partner.)

Explanation: \_\_\_\_\_  
\_\_\_\_\_

### TARGETED VENDOR STATUS *(Refer to definitions on reverse.)*

Does your firm meet the definition of service-disabled veteran business enterprise?

☐ Yes                      ☐ No

### OWNER'S CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS

On behalf of the above-named company, the undersigned certifies that the information and response provided herein are true, complete and accurate as of this date, and he/she is aware that any intentionally misrepresented or falsified information may result in disqualification from future contracting opportunities.

Signature _____	Date _____
Name (please print) _____	Title _____

This form was prepared for use in compliance with the Responsible Contractor Program Policy of CALPERS. Any contractor or subcontractor with a minimum contract size of \$50,000 should complete this form. CALPERS reserves the right to disclose the contents of this Self-Certification Form at its or its Advisors or Partners discretion.

## INTRODUCTION:

The California Public Employees' Retirement System ("the System") has a deep interest in the condition of workers employed by the System and its advisors or partners. The System, through the Responsible Contracting Policy, supports and encourages fair wages and fair benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on the System's real estate investments. The System endorses small business development, market competition and control of operating costs. The System supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of the System's real estate investments. The System believes that an adequately compensated and trained worker delivers a higher quality product and service. This policy is intended to complement and in no manner detract from existing System policy regarding service-disabled California veteran owned business enterprises.

## DEFINITIONS:

**Responsible Contractor:** A contractor or subcontractor who pays workers a fair wage and a fair benefit as evidenced by payroll and employee records and who complies with CALPERS' service-disabled veteran business enterprise (SDV/BE) policy. "Fair Benefits" are defined as including, but not limited to, employer paid family health care coverage, pension benefits, and apprenticeship programs. What constitutes a "fair wage" and "fair benefit" depends on the wages and benefits paid on comparable real estate projects based upon local market factors, that include the nature of the project (e.g. residential or commercial, public or private) comparable job or trade classifications, and the scope and complexity of the services provided.

**SDV/BE Policy:** Contractors to the System shall make a good faith effort to comply with CALPERS annual contract participation goals by directing purchase of goods and services to 3% service-disabled veteran owned business enterprises. The definitions of these terms are as follows:

**Service-Disabled Veteran:** A veteran of the military, naval or air services of the United States with a service-connected disability.

**Service-Disabled Veteran Business Enterprise:** A business enterprise which is certified by the State of California Office of Small & Minority Business of the Department of General Services as meeting all of the following: (1) it is a business enterprise which is at least 51% owned by one or more disabled veterans, or, in the case of a publicly-owned business, at least 51% of the stock of which is owned by one or more disabled veterans, (2) the management and daily business operations are controlled by one or more disabled veterans (the disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern), and (3) it is a business concern with its home office in the United States and which is not a branch or subsidiary of a foreign corporation, firm or other business.

**Responsible Contractor Worksheet**

**Company Name:** \_\_\_\_\_

**This Worksheet has been provided to assist you with answering questions on the Certification of Responsible Contractor Status form. The Responsible Contractor Program encourages fair wages and benefits, consistent with local market practices. Please take a few minutes to complete the following questions about your firm and the marketplace in which you operate.**

**Wages**

**1. Considering the wages paid by your competitors in this market, the nature of this project, and the size and scope of this contract, do you believe that your firm will pay local market wages for the employees on this job?**

\_\_\_\_\_ ☐ **YES** ☐ **NO**

**Benefits**

**1. For the employees on this job, will your firm provide employer-paid health insurance for the employee or the employee and his or her family?**

\_\_\_\_\_ ☐ **YES** ☐ **NO**

**2. For the employees on this job, will your firm provide pension, 401(k), or a similar retirement savings or deferred compensation program?**

\_\_\_\_\_ ☐ **YES** ☐ **NO**

**3. For employees on this job, will your firm provide access to apprenticeship programs for skilled trades?**

\_\_\_\_\_ ☐ **YES** ☐ **NO**

**4. Are there any other benefits that you will provide to the employees on this job that you would like to describe (e.g. paid vacation, sick leave, etc.)? If so, please describe:**

\_\_\_\_\_  
\_\_\_\_\_

**5. Considering your answers above, the benefits your competitors in this market provide to their employees, the size and scope of this contract, and the nature of this project, do you believe your firm will provide benefits consistent with local market practices to the employees on this job?**

\_\_\_\_\_ ☐ **YES** ☐ **NO**

**Please attach additional page(s) if you would like to elaborate on any of the answers you provided above.**

## **Complaint, Investigation and Resolution Process Regarding Potential Violations of the CalPERS' Responsible Contractor Policy (RCP)**

All complaints must be in writing and sent to CalPERS at the following address:

**California Public Employees' Retirement System  
Investment Office, Real Estate Unit  
400 Q Street, Suite E4800  
Sacramento, California 95811  
Attention: Senior Investment Officer, Real Estate  
Tel: 916-795-3400  
Fax: 916-795-3965**

The following outlines the complaint, investigation and resolution process:

**Step 1** - The complaining party contacts CalPERS real estate staff, in writing, stating the complaint. The written complaint must document the specific allegation(s), the specific provision(s) in the RCP that is alleged to be violated, the property address, date, and parties involved. Please include any other information that may be pertinent to the matter.

**Step 2** - CalPERS staff will log in the written complaint into the Responsible Contractor Complaint/Concern Log. The Complaint/Concern Log is maintained by real estate staff. After the written complaint has been filed and logged into the Responsible Contractor Complaint/Concern Log, the complaining party may request in writing a copy of that contractor's completed Self-Certification Form.

**Step 3** - CalPERS staff will contact the complaining party to gather additional information to fully understand the nature of the complaint(s). Also, upon receipt of a complaint, CalPERS may, in its discretion, disclose to the contractor against which the complaint has been filed, the nature of the complaint, may provide a copy of the written complaint to the contractor in question and may disclose to the contractor the transmittal of the Self-Certification Form to the complaining party.

**Step 4** - CalPERS staff will work with the Partner or Advisor who oversees the affected property (the subject of the complaint), to fully understand the matter. Such investigation may include, but not be limited to, comparing the complaint to the requirements of the RCP, review of payroll and employee records, certification, and pattern of conduct of the service vendor. CalPERS will contact the complaining party before completion of the investigation process to make sure it fully understands the complaint and charges and to attempt to clear up any factual disputes in evidence.

**Step 5** - Upon completion of the investigation, CalPERS staff will issue a decision on the matter. If a violation of the RCP is deemed to have occurred, staff will take the appropriate action which may include cancellation of the service contract, require re-bidding of the service contract, or other action, as necessary. Such findings on any potential action will be communicated to the parties involved.

**Step 6** - If CalPERS staff deems it necessary, a meeting may also be arranged with the complaining party to address any other outstanding concerns or to better inform the complaining party on how they can be more pro-active in increasing the amount of responsible contractors bidding on all CalPERS potential contracts. Appropriate parties involved in the matter will attend the meeting which could include: CalPERS real estate staff, CalPERS legal staff, Partner or Advisor and complaining party.